

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

The Recovery Project
Petitioner

File No. 21-1769

v

Meemic Insurance Company
Respondent

Issued and entered
this 20th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 29, 2021, The Recovery Project (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Meemic Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on September 29 and 30, 2021 and October 25, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 14, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 23, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments rendered on July 15, 22 and 29, 2021, and August 5, 19, and 26, 2021. The Current Procedural Terminology (CPT) codes at issue include 97124 and 97112, which are described as massage therapy and neuromuscular reeducation, respectively. In its denial, the Respondent referenced Official Disability Guidelines (ODG) for massage and physical therapy and stated that the injured person's treatment exceeded guideline recommendations.

With its appeal request, the Petitioner submitted progress notes identifying the following diagnoses for the injured person in relation to a June 2018 motor vehicle accident (MVA): complete traumatic amputation between hip and knee; abnormalities of gait and mobility; unsteadiness; traumatic cerebral edema with loss of consciousness; and diffuse traumatic brain injury (TBI) with loss of consciousness. The Petitioner documented in its notes that the injured person showed progression with ambulation endurance, weightbearing tolerance, and transfers. The Petitioner further noted that the soft tissue massage treatment prevents "further deterioration of [the injured person's] function with pain management." The Petitioner referenced the American Physical Therapy Association clinical practice guidelines and medical literature in its request. The Petitioner's request for an appeal further stated:

[The Department] defines their utilization process as assessing cases based on standards of practice, not just using the ODG...[The injured person] was involved in a MVA and suffered from a TBI, left above the knee amputation, pelvic fracture, right clavicle fracture, left tib/fib fracture, facial fractures, bladder laceration, splenic laceration, subdural and sub arachnoid hemorrhage, chronic soft tissue pain due to the multiple trauma and left residual limb pain. Due to [the injured person's] extensive injuries, he has developed secondary complications which include depression, chronic bilateral shoulder, low back, and neck pain.

In its reply, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines for TBI disorders and chronic pain. The Respondent stated in its reply:

The medical records do not support this request as it appears over 17 physical therapy and massage treatment sessions have been provided since 11/19/2020 ... for the 6/7/2018 injury. Per the documentation, [the injured person] "took 3 weeks off of therapy for their anniversary;" therapist also noted diffuse pain, neck, shoulder and back, right ankle limited range of motion. The treatment quantity exceeds the ACOEM recommendation guidelines as well over 8 weeks of therapy was provided. Ample opportunity has been given to initiate and reinforce an independent home activity regime.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that

the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the dates of service at issue and the treatment was not overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physician who is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on ACOEM guidelines for chronic pain, ODG for Auto Injury regarding massage therapy for pain, and the Centers of Medicare & Medicaid Services for its recommendation.

Based on the submitted medical documentation, the IRO reviewer noted that the injured person was “reaching his personal goals to don his prosthesis daily” and to walk more at home. The IRO reviewer noted that the injured person reported increased cervical and paraspinal pain from walking with his assistive device. The IRO reviewer noted that the injured person also used a power wheelchair for mobility, was able to perform stand pivot transfers with assistance, and received speech and occupation therapy treatment concurrently with massage. The IRO reviewer further noted that the injured person’s goal was to walk community distances without an assistive device.

The IRO reviewer explained that ACOEM and ODG guidelines “support the use of massage therapy in the setting of chronic pain and TBI/concussion” and that “massage is a passive intervention, considered an adjunct to other recommended treatment, especially active interventions like exercises.” More specifically, the IRO reviewer stated:

In this case, the [injured person] was attending concurrent active physical therapy at the time of the massage therapy visits and displayed functional gains. Receiving massage therapy along with [physical therapy] improved the [injured person’s] ability to actively participate in therapy and maintain function.

The IRO reviewer recommended that the Director reverse the Respondent’s determination that the massage treatment provided to the injured person on July 15, 22 and 29, 2021, and August 5, 19, and 26, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director reverses the Respondent’s determinations dated September 29 and 30, 2021 and October 25, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford